since the war, of which we have reason to be proud; but which, we should not forget, has also its temptations and its dangers. It is akin to that which we see in Germany since the Franco-Prussian war. In such days as we have passed through, I think we all realize that any arrangement which should secure time for reflection on the part of both peoples would be a positive gain. (Applause.)

When we talk about arbitration, we are met with many objections only two or three of which I will make brief reference to. One of these is, as Mr. Schurz said, that there are some subjects to which it cannot be applied. This I think we should all concede. We could never submit to arbitration a question concerning our own independence or autonomy. My own opinion is that we could not submit a boundary question seriously involving the question of our territory. And I am a little more inclined than he is to think that there are questions of national insult and honor that we never would submit to, whether we ought or not! But, however that may be, there is a large group of subjects that are eminently fitted for this treatment: — questions like the consideration of the interpretation of ambiguous language in a treaty, or as to the mode of the execution of a treaty, or in respect to the rectification of a frontier where the consequences were not too great, and especially any settlement of national or individual claims. These are obvious illustrations, where many might be given.

And now as to this other objection which is raised, that we have no means of enforcing the decisions of arbitration. I should like to ask if we have not the same means of enforcing an arbitral judgment that we have now of enforcing a treaty. Do we have to resort to war to enforce a treaty with a foreign nation? Have we ever had to resort to war, or to any violence, to enforce arbitral judgments? I cannot conceive that there could possibly be an arbitral decision more distateful to Great Britain than that in the Alabama case; but she walked up with her fifteen-million-and-a-half check promptly. And for one, I hope never to see a decision more distasteful to me than the Halifax decision was. I refer to these because I consider them the most conspicuous illustrations possible of distasteful arbitral judgments between us and Great Britain. And yet we abided by them, and here we are. It gives as good historical assurance as any possible facts can, that we shall have no trouble about arbitral judgments between Great Britain and ourselves.

One other, and the last: It is said that we are a lot of sentimentalists, who do not know much about practical life, college professors and the like; and that is unhappily true of some of us. It is said that we imagine that by some kind of legislation or negotiation we can suppress the passions of men, and put an end to war. I think I voice the feelings of this Conference when I say that we have no such expectation, during our generation. I wish we had; but the hard facts are plain enough to every eye. We do hope to diminish the number of wars. We do hope that, if our example shall be followed by the great nations of Europe, it may do something to lift from those millions of toilers these dreadful burdens of which Mr. Atkinson has been telling us. If these are dreams, they are noble dreams, and we will keep dreaming! But none of us expect, I take it, that war is to be done away with at once. None of us expect that we are to disband our little army. We must keep the army that we have, for the mere exercise of police power. And I think we cannot diminish our navy. I am inclined not to speak in quite so strong terms about the naval force as Mr. Atkinson; I think we do need as many vessels as we have, to represent us in all the various countries of the world where our citizens are. But there is no need of burdening this nation with the heavy load of the support of a navy. We can get on substantially as we are getting on at the present time. We have no idea of pursuing any vagaries, any hallucinations, that have no solid foundation in fact. What we propose is that this nation shall take an attitude before the nations of the world, manly, brave, noble, showing that it is ready to defend itself whenever there is need, as becomes a people who believe that there are some calamities more dreadful than war; but at the same time that we shall make no claims but just claims on foreign nations, and that we shall show our faith in the justice of our claims by our willingness to submit them to the decision of a properly constituted, impartial court. And when we have done this, we will leave to them every question except those that involve our independence and our honor. When this nation and Great Britain have set that example before the nations of the world, we may believe that we shall have taught them, not only that great lesson of civil liberty which it has been the mission of England and the United States to teach, but also that other lesson, greater and nobler, if possible, the lesson of peace and justice in the settlement of our quarrels. (Applause.)

The Conference then adjourned.

THE ARBITRATIONS OF THE UNITED STATES.

BY PROFESSOR JOHN BASSETT MOORE.

(CONCLUDED.)

After first making a naval demonstration, the United States by a convention signed February 4, 1859, agreed to arbitrate the claim made against Paraguay by the United States and Paraguay Navigation Company. A commission composed of a representative of each Government decided August 13, 1860, that the claim was not well founded. On the ground that the convention admitted liability and that the commissioners, by going into the merits of the case, had exceeded their competency, the United States repudiated the award, and has since endeavored to settle the claim by negotiation.

Another arbitration not permitted to end agitation was the submission to Louis Napoleon, under a treaty signed February 26, 1851, of the claim made by the United States against Portugal for the latter's nonfulfillment of neutral duty, in suffering the destruction on September 27, 1814, in the port of Fayal, in the Azores, of the American privateer General Armstrong by a British fleet. The arbitrator held that the privateer was the aggressor, and made an award adverse to the claim. On various grounds, among which was the charge that the case of the United States was incompletely submitted, the claimant sought to have the award set aside. This course the United States very properly declined to take, but it subsequently paid the claimants from its own treasury. Another arbitration between the United States and Portugal, under a protocol signed in 1891, to which Great Britain is also a party, respecting the seizure by the Portuguese Government of the Delagoa Bay Railway and the annulment of its charter, is now pending before three Swiss jurists at Berne.

Under a convention concluded November 10, 1858, the United States and Chile referred to the King of the Belgians a claim growing out of the seizure of the proceeds of the cargo of the American brig *Macedonian* by the

famous Lord Cochrane, founder of the Chilean navy. An award was made May 15, 1863, in favor of the United States.

As submissions of claims to foreign ministers, we may class that of the claim against Brazil for the loss of the whale ship *Canada*, to Sir Edward Thornton, British minister at Washington, under a protocol of March 14, 1870; and that of the claim of Carlos Butterfield against Denmark, for the firing on one vessel and the detaining of another in the Danish West Indies, to Sir Edmund Monson, British minister at Athens, under a treaty signed December 6, 1888. In the case of the *Canada*, the award was favorable to the United States; in the case of Butterfield adverse.

II.—THE UNITED STATES AS ARBITRATOR OR MEDIATOR.

Besides submitting its own controversies to arbitration, the United States or its representatives have not infrequently discharged an arbitral or mediatorial function. On three occasions the arbitrator has been the President: (1) Under a protocol between Great Britain and Portugal of January 7, 1869, touching claims to the island of Bulama; (2) under a treaty between the Argentine Republic and Paraguay of February 3, 1876, to settle a boundary dispute; (3) under a treaty between Costa Rica and Nicaragua of December 24, 1886, to settle boundary and other questions.

On four occasions a minister of the United States has acted as arbitrator: (1) In 1873 the envoys of the United States and Italy at Rio de Janeiro rendered a decision upon the claim of the Earl of Dundonald, a British subject, against Brazil; (2) in the same year the minister of the United States at Santiago was appointed as arbitrator between Chile and Bolivia in respect to some disputed accounts; (3) in 1874 the minister of the United States at Rome determined a boundary dispute between Italy and Switzerland; (4) in 1875 the minister of the United States at Bogota rendered an award on certain claims of Great Britain against Colombia.

The mediatorial services of the United States have been numerous. One of the most important is that performed by the Secretary of State in effecting, on April 11, 1871, between Spain on the one hand, and Chile, Peru, Ecuador and Bolivia on the other, an armistice which can not according to its terms be broken by any of the belligerents except after notification through the Government of the United States of its intention to renew hostilities. Another important mediatorial service was that rendered in 1881 to Chile and the Argentine Republic by the ministers of the United States at Santiago and Buenos Ayres, in effecting by the exercise of their good offices an adjustment of a long-standing boundary dispute.

III.— DOMESTIC TRIBUNALS FOR THE DETERMINATION OF INTERNATIONAL CLAIMS.

Besides being concerned in arbitrations, either as a party or as referee, the Government of the United States has often created tribunals under its own statutes, to execute conventional obligations and determine questions of law mainly international. In many instances claims of considerable number and magnitude have been settled for a gross sum, which this Government has undertaken to distribute; or else for a particular consideration, such as the cession of territory, it has undertaken to pay to a certain amount claims of its citizens against the government making the concession. In either case claims against the fund are valid only so far as they formed just demands against the foreign government under the principles of international law.

Tribunals of the type in question, created pursuant to treaty stipulations, have been as follows: Two under the treaty with Spain of February 22, 1819, ceding the Floridas and one under the Spanish indemnity convention of February 17, 1834. There have been two under treaties with France, the first under the treaty of April 30, 1803, to ascertain claims against that Government which the United States had undertaken to pay; the second, under the treaty of July 4, 1831, to distribute an indemnity paid by France for spoliations. There have also been two under treaties with Great Britain, the first under the treaty of November 13, 1826, to distribute an indemnity paid for slaves carried away in derogation of Article 1 of the treaty of Ghent; the second, under the treaty of May 8, 1871, to distribute the Alabama award. The rest have been created to ascertain the beneficiaries of indemnities paid under the following treaties: Brazil, January 27, 1849; China, November 8, 1858; Denmark, March 28, 1830; Mexico, February 2, 1848; Peru, March 17, 1841; Two Sicilies, October 14, 1832.

IV. — SUMMARY.

Summarizing the results of our investigations we find that the Government of the United States has entered into forty-eight agreements for internatoinal arbitration; that it, or one of its representatives, has seven times acted as arbitrator, and that it has erected thirteen tribunals under its own laws to determine the validity of international claims; the total, therefore, of the arbitrations or quasi-arbitrations to which it has been a party is sixty-eight, to say nothing of agreements now pending, but as yet incomplete. Only two cases have been adduced in which it has acted as mediator, for the reason that instances of that character are so numerous and so diverse that it would be impossible within the limits of the present paper to describe them.

The arbitrations of the United States have embraced many types of international controversy, and many highly important questions of law, both public and private. Not infrequently the questions in whose solution they have resulted were hotly discussed as just and almost necessary causes of war, involving national rights and national honor. If the contracting parties had resorted to force, they would perhaps never have realized how easily and honorably their differences might have been adjusted by reasonable methods. If the United States and Great Britain, instead of making the Treaty of Washington, had gone to war about the Alabama claims, which involved the rights and honor of both countries, and even the public legislation and the conduct of the public authorities of one of them, it is probable that many patriotic writers in both countries would now be engaged in showing how impossible it was to submit such questions to arbitration.

V.—GROWTH OF SENTIMENT IN FAVOR OF ARBITRATION.

The frequent adoption by the United States of the method of arbitration is in itself conclusive evidence of a very general sentiment, both in this country and abroad, in favor of the amicable settlement of international disputes. But, besides finding practical acceptance, this sentiment has disclosed itself in various impressive forms. It is probable that the many petitions and memorials which have during the last half-century been presented to the executive and legislative branches of the Govern-

ment by respectable and influential bodies have had great weight in determining the course of negotiations. As early as February, 1832, the senate of Massachusetts adopted by a vote of 19 to 5 resolutions expressive of the opinion that "some mode should be established for the amicable and final adjustment of all international disputes, instead of resort to war." In 1837 a resolution of similar purport was passed by the house of representatives of Massachusetts unanimously, and by the senate by a vote of 35 to 5. In 1844 the legislature of the same State adopted a resolution urging that a congress of nations be convoked to devise measures for putting an end to war. In 1852 the legislature of Vermont placed itself in line with that of its neighbor, in the advocacy of reasonable practices. In February, 1851, Mr. Foot, from the Committee of Foreign Relations, reported to the Senate of the United States the following resolution:

Whereas appeals to the sword for the determination of national controversies are always productive of immense evils; and whereas the spirit and enterprises of the age, but more especially the genius of our own Government, the habits of our people, and the highest permanent prosperity of our Republic, as well as the claims of humanity, the dictates of enlightened reason, and the precepts of our holy religion, all require the adoption of every feasible measure consistent with the national honor and the security of our rights, to prevent, as far as possible, the recurrence of war hereafter: Therefore,

Resolved, That in the judgment of this body it would be proper and desirable for the Government of these United States, whenever practicable, to secure in its treaties with other nations a provision for referring to the decision of umpires all future misunderstandings that can not be satisfactorily adjusted by amicable negotiation, in the first instance, before a resort to hostilities shall be had.

Two years later Senator Underwood, from the same committee, reported a resolution of advice to the President—

To secure, whenever it may be practicable, a stipulation in all treaties hereafter entered into with other nations, providing for the adjustment of any misunderstanding or controversy which may arise between the contracting parties, by referring the same to the decision of disinterested and impartial arbitrators to be mutually chosen.

On June 13, 1888, Mr. Sherman, also from the Committee on Foreign Relations, reported to the Senate a concurrent resolution requesting the President—

To invite, from time to time, as fit occasions may arise, negotiations with any Government with which the United States has or may have diplomatic relations, to the end that any differences or disputes arising between the two Governments which can not be adjusted by diplomatic agency, may be referred to arbitration, and be peaceably adjusted by such means.

This resolution was adopted by the Senate February 14, 1890, and by the House of Representatives April 3, 1890. On June 16, 1893, the British House of Commons adopted a reciprocal resolution, expressing the hope that Her Majesty's Government would co-operate with the Government of the United States to the desired end.

In 1874 a resolution in favor of general arbitration was passed by the House of Representatives.

Of all the memorials and petitions presented to Congress on the subject of international arbitration, the most remarkable were those submitted in 1888, in connection with the communication made to the President and the Congress of the United States in that year by 233 members of the British Parliament urging the conclusion of a treaty between the United States and Great Britain, which should stipulate "that any differences or disputes arising between the two Governments, which can not be adjusted by diplomatic agency, shall be referred to arbitration." This communication was re-enforced by petitions and memorials from a great number of associations and private individuals, from Maine to California. In the city of New York a public meeting was held to welcome a deputation of Englishmen who had come hither to present the communication; and a resolution was adopted, pursuant to which the mayor appointed a committee of five citizens, at the head of whom was the eminent publicist and law reformer, David Dudley Field, to urge upon the President and Congress the making of such a treaty as that described. This committee presented to Congress a memorial amply demonstrative of the beneficence of arbitration, both in theory and in practice.

In 1883 the Government of Switzerland proposed to the United States the conclusion of a convention for thirty years, binding the contracting parties to submit any differences between them to arbitration. Touching this proposal the President, in his message to Congress, said:

The Helvetian Confederation has proposed the inauguration of a class of international treaties for the referment to arbitration of grave questions between nations. This government has assented to the proposed negotiation of such a treaty with Switzerland.

In 1890 an arbitration treaty was formulated by the International American Conference.

This treaty, both in its declaration of principles and in the precise and positive character of its stipulations, constitutes such a conspicuous and comprehensive acceptance of arbitration, that its essential provisions should be quoted. They are as follows: